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INTELLECTUAL PROPERTY LAW GROUP LLP 12 SOUTH FIRST STREET SUITE 1205 SAN JOSE, CA 95113			DAO, THUY CHAN			
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/839,336	ANTON, JR., FRANCIS M.	
	Examiner	Art Unit	
	Thuy Dao	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 December 2009.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 and 12-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-10 and 12-24 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 20 April 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This action is responsive to the amendment filed on December 23, 2009.
2. Claims 1-10 and 12-24 have been examined.

Response to Amendments

3. Claims 1, 2, 9, 10, and 17 have been amended.
4. The objection to claims 1-10 and 12-24 is withdrawn in view of Applicant's amendments.

Response to Arguments

5. Applicant's arguments have been fully considered and are not persuasive.
 - a) Rejections under 102(e), Moshir

INDEPENDENT CLAIM 9 (Remarks, pp. 10-11):

In Remarks, page 10, Applicants argued,

against a version of said first device management software". The preparing of an "update list" for a particular target computer does not teach the claimed method of the device actually "requesting and receiving a version code" and further "comparing the version". Essentially, Moshir discloses that based on a prepared list that states a new package should be installed, the target computer should therein download the update that is not currently there. There is no teaching of the "device requesting and receiving a version code", and comparing the version as claimed.

As an initial matter, examiner notes that Applicant's arguments fail to specifically point out how the language of the claims patentably distinguishes them from the references as follows:

“preparing of an ‘update list’” → the update list is prepared to list a list of updates, i.e., a list to request an update version code;

“a new package should be installed”/“download the update” → a new/update version code has been downloaded/received and now is installed; and

“update list”, “new package”, “the update” → code versions have been compared to determine which code versions are updated/new versions.

In the instant case, Moshir explicitly teaches:

“device requesting and receiving a version code” (FIG.2, Update Server 220 requests and receives Software Patch from package/vendor computer 230 via Internet 214); and

“comparing the version” (col.8: 4-18, comparing an already-installed version with a new version and using the new version to replace/overwrite the already-installed version, comparing an existing version and if matched, installing a fix or a patch; col.9: 20-28, comparing an old version and install an update version; col.20: 10-28, comparing versions by last package update, FIG.7, comparing current configuration 700 (i.e., existing versions) with recommended configuration 704 (i.e., updated/new versions)).

DEPENDENT CLAIMS 10-16 (Remarks, pp. 11-12):

Claims 10-15 depend directly or indirectly on independent claim 9 and are also rejected based on virtue of their dependency on the rejected base claim 9.

In particular for Claim 10, Moshir explicitly teaches:

said server in communication with said device through said communication network (FIG.2, package/vendor computer/server 230-234 communicate with Update Server 220), and

said server providing said version code of the stored second device management software to said device (FIG.2, package/vendor computer/server 230-234 provides software patch versions)

in response to receiving the request for said version code from said device (FIG.2, Update Server 220 requests and receives Software Patch 1 from package/vendor computer 230 via Internet 214).

b) Rejections under 103(a), Moshir in view of Pace

INDEPENDENT CLAIM 1 (Remarks, pp. 12-13):

The responses above with respect to claim 9, apply here to claim 1.

Applicants further argued,

Applicant respectfully contends then, that the claimed software maintenance of the “access point device” is not in any manner taught or suggested by Moshir since it does not make sense that the software of the “update server 220” is being updated and self-maintaining.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *software of the access point device is being updated and self-maintaining*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In the instant case, the plain language merely recites "*without manual maintenance by a user such that the access point device is self-maintaining*" (emphasis added), which does not exclude the update server 220 ("the access point" as claimed) can automatically update/download new patches (i.e., self-maintaining without manual maintenance as claimed) from the package/vendor computers 230-234.

DEPENDENT CLAIMS 2-8 (Remarks, page 13):

Claims 2-8 depend directly or indirectly on independent claim 1 and are also rejected based on virtue of their dependency on the rejected base claim 1.

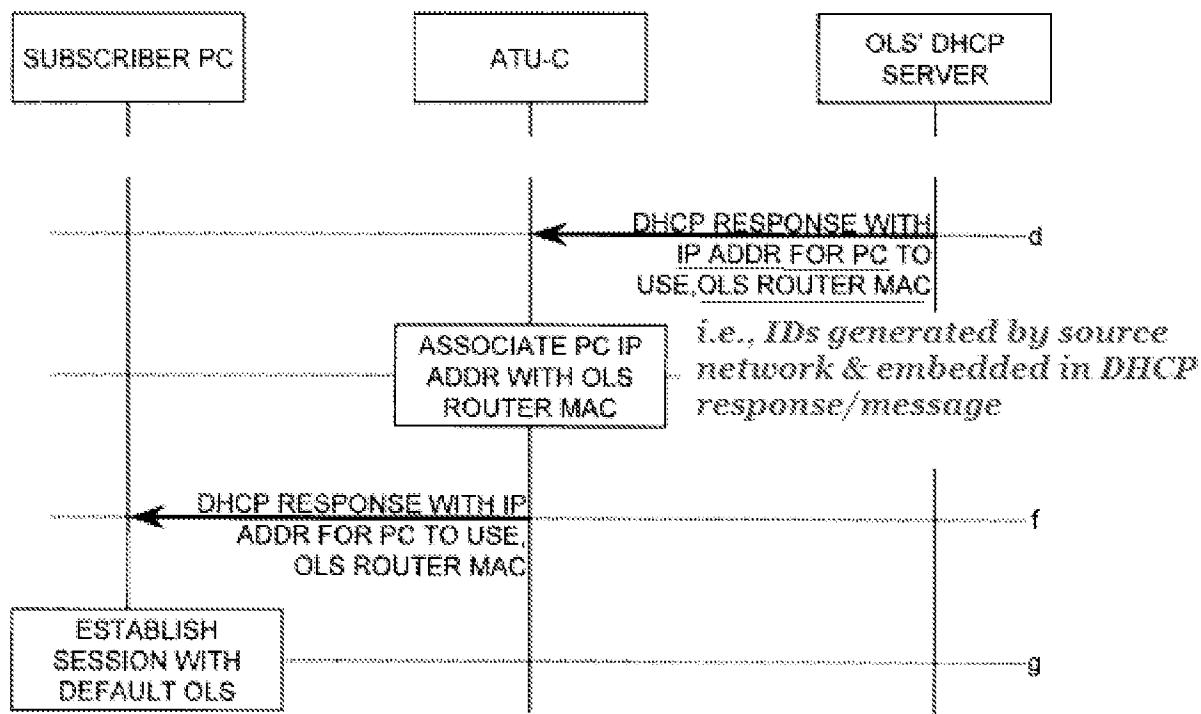
c) Rejections under 103(a), Moshir, Pace, and Hoff

INDEPENDENT CLAIM 17 (Remarks, pp. 13-14):

In Remarks, page 13, Applicants argued,

Moshir, Pace and Hoff fail to teach of "the mobile user is authorized through one or more *embedded IDs generated by said source network into an embedded reserved field of a file*". As

Examiner respectfully disagrees and would like to direct Applicants' attention to partial/annotated FIG.5 below:



partial /
annotated

FIG. 5

and col.8: 26-34 as extracted below:

35 device 2.

At g, a connection is established between computing device 2 and the default service provider, and the subscriber establishes a session with the OLS. Once the session between computing device 2 and the default OLS is established, ATU-C 4 only allows passage of network messages, with the exception of the aforementioned ARP and DHCP messages, having the MAC addresses of computing device 2 and the OLS router. All other incoming or outgoing messages are blocked.

36 FIGS. 6a and 6b are a message flow diagram showing the

As illustrated above, an MAC address of the OLS service provider's router ("ID generated by said source network" as claimed) has been embedded in some reserved field in a DHCP response/message and sent to ATU-C. Later, ATU-C only authorizes passage/message through said MAC address of the OLS service provider's router ("said ID generated by said source network" as claimed).

DEPENDENT CLAIMS 18-24 (Remarks, page 14):

Claims 18-24 depend directly or indirectly on independent claim 17 and are also rejected based on virtue of their dependency on the rejected base claim 17.

In conclusion, the examiner respectfully maintains ground of the 35 USC 102(e)/103(a) rejection over claims 1-10 and 12-24.

Claim Rejections – 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a

patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 9-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Moshir (art of record, US Patent No. 6,990).

Claim 9:

Moshir discloses a *method of maintaining software on a communication network access device, said method comprising:*

(a) *first storing a first device management software (e.g., FIG. 2, software patches)*

in a memory in said device (e.g., FIG. 2, Targets 202 and 208, Update Server 220, Update List 222);

(b) *periodically checking availability of a second device management software (e.g., FIG. 4, col.4: 38-48, block 418, Check for new software update; col.13: 59-67)*

by said device requesting and receiving a version code of said second device management software through said network (e.g., col.5: 10-19; col.13: 14-32; FIG.2, Update Server 220 requests and receives Software Patch 1 from package/vendor computer 230 via Internet 214) and

comparing a version of said second device management software against a version of said first device management software (e.g., col.30: 52-63; col.8: 4-18, comparing an already-installed version with a new version and using the new version to replace/overwrite the already-installed version, comparing an existing version and if matched, installing a fix or a patch; col.9: 20-28, comparing an old version and install an update version; col.20: 10-28, comparing versions by last package update, FIG.7, comparing current configuration 700 with recommended configuration 704; col.13: 58-67); and

(c) for the version of said second device management software that is a different version from said first software device management (e.g., col.16: 27-49; col.20: 10-28), automatically loading the second device management software in said memory, immediately following said checking, through said network for replacing said first software such that the device is self-maintaining (e.g., col.4: 55-66; col.5: 54-64; col.11: 32-53).

Claim 10:

Moshir discloses a method as recited in claim 9 further comprising inputting upgrade data to a server from a computer, said data for installing and storing said second device management software in said server, said server in communication with said device (e.g., FIG. 2, Update List 222 includes new available patches, col.14: 59-67), through said network, and said server providing said version code of the stored second device management software to said device in response to receiving the request for said version code from said device (e.g., FIG. 5, Package Computer 567, Update Server 528, col.10: 52-61; col.13: 41-54).

Claim 12:

Moshir discloses a method as recited in claim 10 further comprising first authenticating an identity of said server to said device (e.g., col.6: 19-43; col.7: 46-67).

Claim 13:

Moshir discloses a method as recited in claim 12 further comprising second authenticating an identity of said device to said server (e.g., col.3: 56-67; col.12: 41-61).

Claim 14:

Moshir discloses a method as recited in claim 10 further comprising automatically performing said checking and said loading at a predetermined time without manual maintenance from a user (e.g., col.19: 12-21; col.23: 12-25).

Claim 15:

Moshir discloses a method as recited in claim 14 further comprising stopping an acceptance of a new connection prior to said loading (col.10: 26-45; col.18: 4-31).

Claim 16:

Moshir discloses a method as recited in claim 9 further comprising automatically performing said loading at a predetermined time without manual maintenance from a user (e.g., col.19: 12-31; col.24: 36-57).

Claim Rejections – 35 USC §103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moshir in view of Pace (art of record, US Patent No. 2003/0051236 A1).

Claim 1:

Moshir discloses a system for software maintenance of a network access device, said system comprising:

(a) an access point device (e.g., FIG. 2, Update Server 220)
for making a connection between a mobile computer (e.g., Target Computer 202 and 208) and a communications network (e.g., Internet 214 and external Package Computer 230 and 234), said device including

(i) a memory of software containing first device management software for providing a device management function (e.g., Update List 222 and Memory 228); and

(ii) software loading apparatus for automatically loading second software through said network for replacing said first software (e.g., FIG. 3, Update Task List 300, Start Task 304), said device configured to request and

receive a version code of said second software through said network and directly begins loading (e.g., FIG. 5, Update Tasks, Discovery Agent 548, Installer 510)

upon checking that said first software requires replacement due to a comparison determining the first software contains code that is different from the second software (e.g., FIG. 4, Monitor 302, Check for New Software Update 418; col.8: 4-18, comparing an already-installed version with a new version and using the new version to replace/overwrite the already-installed version, comparing an existing version and if matched, installing a fix or a patch; col.9: 20-28, comparing an old version and install an update version; col.20: 10-28, comparing versions by last package update, FIG.7, comparing current configuration 700 with recommended configuration 704),

without manual maintenance by a user such that the access point device is self-maintaining (e.g., col.4: 55-66; col.5: 54-64; col.11: 32-53).

Moshir does not explicitly disclose *an access point device for making a wireless connection between a mobile computer and a communications network.*

However, in an analogous art, Pace further teaches *an access point device for making a wireless connection between a mobile computer and a communications network* (e.g., [0995]-[0006], server ITS2 as a wireless access point).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Pace's teaching into Moshir's teaching. One would have been motivated to do so to provide a wireless network in a close proximity to the wireless devices as suggested by Pace (e.g., [0995]-[0996]).

Claim 2:

Moshir discloses a system as recited in claim 1 further comprising a server including apparatus for receiving data input from a computer for installation and storing said second software for said loading by said software loading apparatus through said

network (e.g., FIG. 2, Package Computer 230 as an external server, Update Server 220).

Claim 3:

Moshir discloses a system as recited in claim 2 wherein said device further includes version checker apparatus for checking a version of said second software against a version of said first software (e.g., col.8: 4-26; col.25: 5-67).

Claim 4:

Moshir discloses a system as recited in claim 3 further comprising first authentication apparatus for authenticating an identity of said server to said device (e.g., col.8: 46-67; col.16: 27-41).

Claim 5:

Moshir discloses a system as recited in claim 4 further comprising second authentication apparatus for authenticating an identity of said device to said server (e.g., col.6: 19-43; col.7: 46 – col.8: 4).

Claim 6:

Moshir discloses a system as recited in claim 3 further comprising automatic apparatus for automatically performing said checking and said loading at a predetermined time (e.g., col.19: 12-31; col.23: 8-24).

Claim 7:

Moshir discloses a system as recited in claim 6 further comprising shut-down apparatus for stopping an acceptance of new connections prior to said loading (e.g., col.10: 7-25).

Claim 8:

Moshir discloses a system as recited in claim 1 wherein said loading is performed automatically at a predetermined time (e.g., col.23: 12-25; col.24: 36-59).

10. Claims 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moshir in view of Pace and Hoff (art of record, US Patent No. 5,978,373).

Claim 16:

Claim 16, which recite(s) the same limitations as those of claim 1, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claim(s), it also teaches all of the limitations of claim 16.

Neither Moshir nor Pace explicitly discloses *the mobile user is authorized through one or more embedded IDs generated into an embedded reserved field of a file*.

However, in an analogous art, Hoff further discloses *the mobile user is authorized through one or more embedded IDs generated into an embedded reserved field of a file* (e.g., FIG. 4b → ... → FIG. 5, col.7: 16-58 and col.8: 24-34).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Hoff's teaching into Moshir and Pace's teaching. One would have been motivated to do so to provide network access authentication suitable for network users as well as provide secure transmission of data as suggested by Hoff (e.g., col.2: 52 – col.3: 17).

Claim 18:

Moshir discloses a system as recited in claim 17 wherein said user authorization server apparatus includes

(a) source network server apparatus including apparatus for receiving a request from said mobile user to access said communication network, and for determining if said mobile user is currently authorized to access the communication network, and for a currently authorized mobile user to allow said authorized mobile user said access, and for an unauthorized mobile user, not to forward said request (e.g., col.9: 29-52);

(b) redirection server apparatus for receiving from said source server said forwarded request by said unauthorized mobile user for communication network access, and for redirecting said request (e.g., col.7: 46 – col.8: 26); and

(c) user authentication server apparatus for receiving said unauthorized user's request from said redirection server, and for authorizing said unauthorized mobile user to access said communication network (e.g., col.6: 19-43); and

(d) gate keeper server apparatus for receiving an authorization from said authentication server and for informing said source network apparatus that said mobile user is to be allowed access to said communication network (e.g., col.7: 46 – col.8: 26; col.9: 29-52).

Claim 19:

Moshir discloses a system as recited in claim 17 wherein said access point device further includes version checker apparatus for checking a version of said second software against a version of said first software (e.g., col.13: 58 – col.14: 8).

Claim 20:

Moshir discloses a system as recited in claim 19 further comprising first authentication apparatus for authenticating an identity of said remote maintenance server to said access point device (e.g., col.6: 19-43).

Claim 21:

Moshir discloses a system as recited in claim 20 further comprising second authentication apparatus for authenticating an identity of said access point device to said remote maintenance server (e.g., col.7: 46 – col.8: 3; col.16: 27-42).

Claim 22:

Moshir discloses a system as recited in claim 19 further comprising apparatus for automatically performing said checking and said loading at a predetermined time (e.g., col.19: 12-31; col.23: 8-24).

Claim 23:

Moshir discloses a system as recited in claim 22 further comprising shut-down apparatus for stopping an acceptance of new connections prior to said loading (e.g., col.10: 7-25).

Claim 24:

Moshir discloses a system as recited in claim 17 wherein said loading is performed automatically at a predetermined time (e.g., col.19: 12-31; col.23: 8-24).

Conclusion

11. THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication should be directed to examiner Thuy (Twee) Dao, whose telephone/fax numbers are (571) 272 8570 and (571) 273 8570, respectively. The examiner can normally be reached on every Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Twee Dao/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192